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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/866,736

05/30/2001

Yutaka Asanuma

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5764

22852

7590

12/17/2004

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER  
LLP

1300 I STREET, NW  
WASHINGTON, DC 20005

EXAMINER

ALEXANDER, JESSE NELSON


ART UNIT

PAPER NUMBER

2666

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/866,736	<b>Applicant(s)</b> ASANUMA, YUTAKA	
	<b>Examiner</b> Jesse N. Alexander	<b>Art Unit</b> 2666	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-6 and 10-12 is/are allowed.
- 6) ☒ Claim(s) 1 and 7-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 May 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Priority*

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 2000-163039, filed on 05/31/2000.

### *Drawings*

2. The drawings are objected to because of the following:
  - the label "CONTROL THE MOBILE STATION" for the bold arrow should be replaced with —CONTROLLED SIGNAL— in figures 1, 2, and 10.
  - "TANSMISSION" should be replaced with —TRANSMISSION— in fig. 1, 2, 10

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be

notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

3. The disclosure is objected to because of the following informalities: References to claims in text of disclosure should be removed. Examiner suggests listing numbered embodiments instead, (e.g. "in a first embodiment...") see :

- page 6, line 11
- page 7, line 9
- page 8, line 9
- page 9, line 9

Appropriate correction is required.

***Claim Objections***

4. Claims 1-12 are objected to because of the following informalities:

It is recommended that the word "in" be replaced with the word --from-- in the following claims:

- Claim 3, line 11
- Claim 4, line 13
- Claim 5, line 12
- Claim 6, line 12
- Claim 7, line 14,
- Claim 8, lines 12, 18
- Claim 9, lines 12

5. In claim 10, line 27; it is recommended that the word –average-- be inserted between the words “the” and “reception”.

6. It is recommended that the phrase “capable of” be replaced with the word –for-- in the first line of the following claims: 1, 2, 3

7. It is recommended that a comma be inserted between the phrases “first threshold value” and “or equal to or higher than the second threshold value” at the following positions:

- the last 2 lines of claims 1-6
- line 23 of claim 7
- line 21 of claim 8
- line 20 of claim 9
- line 21 of claim 11
- line 21 of claim 12

Appropriate correction is required.

8. Applicant is advised that should claim 1 be found allowable, claim 7 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

***Claim Rejections - 35 USC § 112***

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 1, 7-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, repeatedly recites "said one station" and "said other station" in the lines that follow line 10. It is not clear if applicant intends to claim both base station to mobile station communication as well as mobile station to base station communication throughout the entire claim.

Claim 7 recites "said radio communication station" in line 6 and again in line 7. It is not clear if applicant intends for the apparatus to control the power level of the station or visa versa.

Claims 8 and 9 recite the limitation "said radio communication station" in line 6. There is insufficient antecedent basis for this limitation in the claims.

### ***Allowable Subject Matter***

11. Claims 2-6 and 10-12 allowed.

12. Claims 1, 7-9 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

13. The following is an examiner's statement of reasons for allowance:

Claims 2-6 and 10-12 are allowable over the prior art of record since the cited references taken individually or in combination fail to particularly disclose a controller configured to average the reception power level of the transmission signal of said one

station received by said other station with a cycle longer than said predetermined cycle and for controlling the transmission power level in said one station in accordance with said averaged reception power level, when the fluctuation rate detected by said detector is lower than the first threshold value or equal to or higher than the second threshold value. It is noted that the closest prior art, Nakamura et al. (US 2002/0094836 A1) discloses a radio communication system capable of making connection in code division multiple access (CDMA) radio communication between a base and a mobile station (**fig. 6**), for controlling a transmission power in accordance with a reception power level comprising: detector configured to detect a fluctuation rate (**or fading pitch see [0020], fig. 6 element 203**) of a transmission path; and controller configured to average a reception power level (**as signal to interference ratio, SIR**) a transmission signal of said base station received by said mobile station with a predetermined cycle and for controlling the transmission power level said base station in accordance with said averaged reception power level (**fig. 4, element 54b-1**), said fading pitch used to correct the SIR of the signal received at the mobile and send a TPC command to the transmitter. However, Nakamura et al. (US 2002/0094836 A1) fails to disclose or render obvious the above underlined limitations as claimed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

**Conclusion**

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to show the state of the art with respect to transmission power control apparatus of a base and mobile station for controlling the transmission power in a CDMA mobile communication system:

- US-5,713,074 01-1998 Hulbert, Anthony Peter
- US-6,449,463 09-2002 Schiff, Leonard N.
- US-5,574,984 11-1996 Reed et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jesse N. Alexander whose telephone number is (571) 272-3167. The examiner can normally be reached on 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on (571) 272-3139. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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Jna3

  
RICKY NGO  
PRIMARY EXAMINER